

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel, W.A. DREW  
EDMONDSON, in his capacity as ATTORNEY  
GENERAL OF THE STATE OF OKLAHOMA,  
et al.,

Plaintiff,

v.

TYSON FOODS, INC., et al.,

Defendants.

Case No. 4:05-CV-329-JOE-SAJ

**DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION TO STAY  
PROCEEDINGS AND REQUEST FOR EXPEDITED HEARING**

**EXHIBIT 1**

WRITTEN STATEMENT

of

W. A. Drew Edmondson  
Oklahoma Attorney General

through

Kelly Burch  
Assistant Attorney General

Before the  
HOUSE SUBCOMMITTEE ON ENVIRONMENT  
AND HAZARDOUS MATERIALS  
HEARING ON SUPERFUND AND ANIMAL AGRICULTURE

November 16, 2005

EXHIBIT 1

making documents, the EPA noted numerous studies indicating that the facilities are significant contributors of pollutants to water across the country and noted numerous reports of discharges resulting in fish kills and other environmental impacts. See generally 68 Fed. Reg. at 7237.

Although States report that nonpoint source pollution is the leading remaining cause of water pollution in the United States, the majority of the estimated 238,000 animal feeding operations in the United States are not currently regulated by the EPA under the Clean Water Act. As of 2001, the EPA estimated that, of the 12,000 animal feeding operations that were subject to the CAFO point source permitting requirements, only 2,530 had actually applied for permits. See 66 Fed. Reg. at 2963. Further, the CAFO permit is primarily directed at preventing the pollution caused by nutrients, as opposed to the other constituents of animal waste such as metals and pathogens. See, e.g., 40 C.F.R. 412.4.

In Oklahoma and Arkansas, the majority of the large-scale poultry operations contributing to pollution of Oklahoma's natural resources are not regulated under the Clean Water Act. As of 2002, the estimated total company-owned or contract poultry houses located within the IRW included approximately 2,363 houses in Arkansas and 508 houses in Oklahoma. See Exhibit 3. The overwhelming majority of these poultry operations are not CAFOs and are thus not regulated under the federal Clean Water Act. See Exhibit 4.

Additionally, the overwhelming majority of these poultry operations are located outside the boundaries of Oklahoma and are beyond the regulatory authority of the Oklahoma Department of Agriculture, Food and Forestry. Although the Arkansas Legislature passed legislation governing poultry operations in 2003, the deadline for obtaining even a nutrient or poultry litter management plan has been extended until January 1, 2007. See Ark. Code Ann. § 15-20-1106. Thus, the majority